

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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CASE CLOSURES UNDER
ENFORCEMENT PRIORITY SYSTEM

2002 AUG 15 P 3:16

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

The cases listed below have been evaluated under the Enforcement Priority System ("EPS") and identified as low priority, stale, or ADR transfers. This report is submitted in order to recommend that the Commission no longer pursue these cases for the reasons noted below.

II. CASES RECOMMENDED FOR CLOSURE

**A. Cases Not Warranting Further Action Relative to Other Cases
Pending Before the Commission**

EPS was created to identify pending cases that, due to the length of their pendency in inactive status, or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditures of resources. Central Enforcement Docket ("CED") evaluates each incoming matter using Commission-approved criteria that result in a numerical rating for each case.

Closing

these cases permits the Commission to focus its limited resources on more important cases presently pending in the Enforcement docket. Based upon this review, we have identified cases that do not warrant further action relative to other pending matters. We recommend that all cases be closed.¹ Attachment 1 to this report contains a factual

¹ These cases are: RR02L-03 (15th District Democratic Party); MUR 5242 (Michigan Democratic State Central Committee); MUR 5243 (Oberweis for US Senate, Inc.); MUR 5244 (Skorski for Congress); MUR 5250 (NRCC Economic Recovery Workshop); MUR 5254 (Hampden-Sydney College); MUR 5257 (Tom Feeney); and MUR 5258 (Tom Feeney for Congress).

23-04-406-1643

summary of each case recommended for closure, the case EPS rating, and the factors leading to the assignment of a low priority.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources primarily because the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. EPS provides us with the means to identify those cases that, remain unassigned for a significant period due to a lack of staff resources for an effective investigation. The utility of commencing an investigation declines as these types of cases age, until they reach a point when activation of such cases would not be an efficient use of the Commission's resources.

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We recommend that cases be closed³ and one case continued to be held open.⁴

³ These cases are: MUR 5036 (*National Education Association*); MUR 5037 (*National Education Association*); MUR 5086 (*Federation for American Immigration Reform*); and MUR 5191 (*Democratic State Central Committee*)

⁴ MUR 5042 (*DNC Services Corporation*) is closely related to MURs 4530 (*DNC*), 4531 (*DNC*), 4642 (*DNC*), and 4547 (*John Huang*) presently pending before the Commission, and dismissal at this time seems inappropriate.

23-04-406-1644

IV. RECOMMENDATIONS

OGC recommends that the Commission exercise its prosecutorial discretion and close the cases listed below effective two weeks from the day that the Commission votes on the recommendations. Closing these cases as of this date will allow CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

23-04-406-1645

1. Decline to open a MUR, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letter in:

RR02L-03

2. Take no action, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters in:

	MUR 5036	MUR 5037
MUR 5086	MUR 5191	
MUR 5242	MUR 5243	MUR 5244
MUR 5250	MUR 5254	MUR 5257
MUR 5258		

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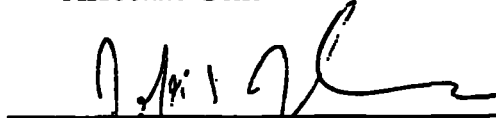
Date



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23-04-406-1646

MUR 5086

Complainant: Raymond M. Kethledge, Counsel to Abraham Senate 2000

Respondents: Federation for American Immigration Reform ("FAIR") and
Dr. John Tanton as Founder and Chairman
Michigan Immigration Political Action Committee ("MichImpac")
American Immigration Control Foundation ("AICF")
Pioneer Fund
Coalition for the Future American Worker
Americans for Better Immigration

Allegations: Complaint, Raymond M. Kethledge, alleges that FAIR, a corporation, funded advertisements that expressly advocated the defeat of Senator Spencer Abraham in violation of 2 U.S.C. § 441b(a). He also alleges that FAIR funded attack ads through two "front" organizations, Coalition for the Future American Worker and Americans for Better Immigration. Additionally, he alleges that AICF and MichImpac, both of which are connected to FAIR, are running attack ads against Senator Abraham, and that FAIR receives funding through the Pioneer Fund which is known to be hostile to non-white groups.

Responses: The Pioneer Fund responded that it had not given funding to FAIR for a number of years.

Dr. Tanton replied that he could not find a specific allegation against him in the complaint. FAIR responded that it neither sponsored, underwrote, nor had anything to do with several of the communications cited by the complainant. Fair did acknowledge that some of its communications, although "spirited," easily passed constitutional muster under any test for express advocacy.

MichImpac replied that it was not a "front" organization for FAIR, since it acted as a fully independent organization.

AICF responded that there were no allegations that it violated the Federal Election Campaign Act. Moreover, it could not find any allegation that it was involved in, or provided support to, any of the organizations listed in the complaint that allegedly ran "attack ads" against Senator Abraham.

No responses were received from the Coalition for the Future American Worker or Americans for Better Immigration.

Date complaint filed: September 5, 2000

Date responses received: Dr. John Tanton, September 28, 2000; MichImpac, October 4, 2000; AICF, October 11, 2000; Pioneer Fund, September 29, 2000; FAIR, September 28, 2000.

23.04.406-1647